# '93-413

Supreme Court, U.S.
FILED
MAY 5 1992
OFFICE OF THE CLERK

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

ALLIE D. LOCKRIDGE,

Petitioner

vs.

DR. A. KAMBOURIS, M.D., Individually and as a Michigan medical doctor, SISTERS OF MERCY CORPORATION, a Michigan profit corporation, doing business under assumed name of MOUNT CARMEL MERCY HOSPITAL and MEDICAL CENTER OF DETROIT, CRITTENTON HOSPITAL INCORPORATED, a non-profit corporation THE UNITED STATES COURT OF APPEALS, STATE OF MICHIGAN,

Respondents

---

PETITION FOR WRIT OF CERTIORARI

FROM THE MICHIGAN SUPREME COURT

LANSING, MICHIGAN

ALLIE D. LOCKRIDGE
IN PROPRIA PERSONA
P. O. BOX 38463
DETROIT, MICHIGAN 48238

(313) 934-7008

## QUESTION PRESENTED

Should the appellate court deprive Plaintiff of her Fourteenth Amendments Rights without an evidentiary hearing or factual finding!

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NO.

IN THE SUPREME COURT

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ALLIE D. LOCKRIDGE,

Petitioner

vs.

DR. A. KAMBOURIS, M. D., ET. AL.,

Respondents

---

PETITION FOR WRIT OF CERTIORARI

To the United States Court of Appeals for MICHIGAN SUPREME COURT, to the Honorable Chief Justice of the United States and To the Honorable Associate Justices of the Supreme Court of the United States:

Allie D. Lockridge, the Petitioner herein, prays that a Writ of Certiorari be issued to review the judgment issued as a mandate of the United States Supreme Court of Michigan entered in the above-entitled action on July 26, 1991.

## OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Michigan Supreme Court for Judgment was issued as mandate on February 28, 1992, and is contained in Exhibit A hereto.

The Opinion of the United State Court of Appeals for the Wayne County Circuit Court State of Michigan denying Plaintiff's Petition for Rehearing filed April 17, 1991, is contained in Exhibit B hereto.

## JURISDICTION

The Opinion of the United States Courts of Appeals judgment was entered as mandate February 28, 1992.

The Jurisdiction of the United State Supreme Court of Michigan is involved under 28 United States Code 1257 and for deprive Plaintiff of her 14th Amendment rights.

## STATEMENT OF THE CASE

April 9, 1973, I the Plaintiff-Appellant entered into Crittenton Hospital. Under the care of Dr. Elias L. Dickson, M. D., a licensed michigan physician, and a staff doctor at that time, Dr. Dickson, performed a total abominal hysterectomy with conservation of ovaries.

He was negligent for leaving fibroid tissue later mortified caused a hole in Plaintiff colon. This cause Plaintiff to be so very ill this required subsequent surgery for the appellant, a few weeks later Plaintiff--APPELLANT went to a prominent law firm in the city of Detroit, Michigan.

Plaintiff spoke with an attorney about the matter his reply was he would represent me in the matter.

An appointment was scheduled for Plaintiff to see, Dr. A. Kambouris, M. D., this was September of 1973.

The attorney filed a claim on behalf of Plaintiff against Crittenton Hospital.

Later the attorney informed Plaintiff that he had spoke with the head doctor at Crittenton Hospital and he said "There no bases for a law suit."

The second surgery was not explain to Plaintiff.
Nor were there any restriction.

Plaintiff should be compensated for pain and suffering though--out the years.

These defendants should be held liable for their negligence.

Plaintiff civil rights have been violated though--out the years.

Dr. A. Kambouris, diagnosed Plaintiff's medical problem a repair of a SIGMOID "VAGINAL FISTUALA".

Dr. A. Kambouris, scheduled Plaintiff to enter Mount Carmel Mercy Hosptial on November 15, 1973.

The second surgery was performed by Dr. A. Kambouris, M. D., at Mount Carmel Mercy Hospital, November 19, 1973, he was negligence for leaving a FOREIGN OBJECT in Plaintiff.

Plaintiff have endured pain since 1973 because of these DEFENDANTS negligence.

There has been FRAUDULENT CONCEALMENT by other physicians.

Now fifteen years later Plaintiff hear allegations to the effect of her conditions.

Plaintiff tried to retain an attorney to investigate the allegations.

After Plaintiff had not been successful in retaining an attorney Plaintiff decided to do her own investigation.

Plaintiff went to all the places she had been treated and requested her medical records.

The medical records personnel did not comply with Plaintiff request for her records.

Plaintiff rights have be violated through-out the years.

In January 1988, Plaintiff filed a Civil Action Claim against DR. A. KAMBOURIS, M. D., ET. AL., in the United States District Court Eastern District of Michigan Southern Division under Case No. 88CV70482DT.

Whereby Plaintiff claim for Medical-Malpractice, and FRAUDULENT CONCEALMENT Plaintiff filed in the United States District Court in Detroit, Michigan, not knowing at that time that was not the proper court for this case.

Plaintiff was in formed by the judge the case would be dismissed for lack of jurisdiction and lack of progress.

During this time Plaintiff was under the impression, that the attorney she had paid a retainer fee was going to represent her.

The attorney even recommend Plaintiff to go to a certain doctor, Plaintiff was schedule for an examination during the examination the doctor inserted his fingers far up in Plaintiff vagina and pressed very hard as if he was trying to crush something far inside of Plaintiff.

Later, Plaintiff received a letter from the attorney saying he had disussed the matter with the doctor and there was no basis for a law suit, it was evident the attorney was given a false statement of Plaintiff conditions Plaintiff then appeal.

The case was appeal to the Sixth Circuit Court Cinninnati Ohio, under Case No. 881922.

The case was dismiss for lack of jurisdiction.

Plaintiff have been unsuccessful in retain legal help.

Later, Plaintiff was inform that he Wayne County Circuit Court was the proper court.

Plaintiff then filed in the Wayne County Circuit Court in October, 1989, under Case No. 925730.

PRESENT: JUDGE THE HONORABLE
CLAUDIA HOUSE MORCOM.

At the hearing on February 9, 1990, I the Plaintiff was ask if Plaintiff would consider a settlement my answer was, "Yes".

Judge Morcom, Signed.

The attorney for Mount Carmel Mercy Hospital Signed.

The attorney for Crittenton Hospital Signed.

The attorney for Dr. A. Kambouris Decline.

A few moments later Judge Morcom entered the courtroom and dismissed the entire case with prejudice.

## REASONS FOR GRANTING WRIT

Plaintiff In Pro Se did not receive adequate treatment of the law.

Plaintiff civil rights was violated through the civil action Plaintiff constitution amendments was violated.

Plaintiff respectfully prays that the United States Supreme Court Rule in Her favor.

Plaintiff allege unfair treatment though the hold ordeal.

In accordance to Ellott v. Perez 751 F. 2d. 1472 (1985) in this instant state court action was unconstitutional with federal rules.

In accordance to Pennekamp v. State of Florida 66 S. CT. 1029. Plaintiff feel that this case should be reviewed in the United State Supreme Court under 28 U. S. C. A. # 1257:.

In accordance with District of Columbia Court of Appeals v. Feldman, 103 S. CT. 1303 (1983).

Under Federal Rules of Civ. Proc. Rule 53, 28 U. S. C. A. party has no right to rely on objection of another, in accordance to United States v. Conservation Chemical Company 106 F. R. D. 210 (1985).

Two defendants presented The court with motions to dismissed Plaintiff lawsuit, based upon summary dispositon and statute of limitations.

Judge Morcom granted to two of the defendants a dismissal with prejudice. The third attorney had not perpared his motion. See transcript Page 4 EXHIBIT (J) the attorney for defendants A. Kambouris did not present his order for Summary Disposition until February 21, 1990, See - Exhibit (D).

In accordance to John v. State of LA (B. D. oft. for State S. U.) 757 F. 2d. 698 (1985).

Federal rule Civ. Proc, Rule 11 28 U. S. C. A. was also violated in accordance to Thomas v. Capital Sec. Services Inc. 836 F. 2d. 866 (5th CIR 1988).

Plaintiff is rightfully entitled to compenatory damages alleged negligence cause by defendants Michigan Courts did not conduct a hearing of Plaintiff Civil Action Case.

The court ignores a Michigan Tolling Statute and grants dismissal with prejudice nor did the court issue a judicial opinion in writing to justify or explain the ruling of February 9, 1990.

In accordance with title 28 U. S. C. #636 (b) (1) (C) the District Court had a duty to conduct a careful review of this case in accordance with Nettles v. Wain Wright 677 F. 2d. 404 (1982).

Scheuer v. Rhodes 94 S. Ct. (1974).

Rule 11 of the federal rules of civil procedure was violated in accordance with Schever v. Rhodes 94 S. Ct. (1974).

At the time of hearing on February 9, 1990; there was no changing of affidavits nor did Judge Morcom rendered no judicial opinion of her ruling on February 9, 1990.

Nor did Judge Morcom issue a judicial opinion in writing to justify or explain her ruling on February 9, 1990.

Federal statute providing that every person who under color of any state statute the party so injured or deprived my have an action for the recovery of damages occurring by such injury or deprivation against any one, shall be liable to the party for damages.

In accordance to rule 56(C) the court may only grant Summary Judgment if the record reveals no genuine issue as to any material facts and the moving party is entitled to judgement as a matter of law in accordance to Celotax Corporation Catrett 106 S. CT. 2548 - 2552 - 53.

Michigan Statute of limitations is three-years, in accordance with Garland v. Shapiro 579 F. Supp. 858 (1984).

In accordance with United States Magistrates Act Title 28 U. S. C. # 636 (b) (1) (B) provides: [A] Judges may also designate a Magistrate to conduct a hearing.

Under Federal Rule Civ. Proc. Rule 55 (b) (1) 28 U. S. C. A. in accordance to Eisler v. Stritzler 535 F. 2d. 148 (1976).

Plaintiff was deprive of due process of law contrary to U. S. Const. 14th Amend Bonner v. Gorman 29 S. CT. 483.

whereby Plaintiff claim for Medical-Malpractice alleged FRAUDULENT CONCEALMENT in the complaint, whereby Plaintiff claim was toll,

In accordance to Gaetzi v. Carling Brewing Company 205 F. Supp. 615 (1962). Medical-Malpractice was tolling because of mere silence.

## CONCLUSION

Plaintiff respectfully submits to this honorable court that Plaintiff is entitled to a jury trial to ensure a fair and impartial hearing and prays that she will be granted a Writ of Certiorari for a jury trial in the Supreme Court of Michigan.

Dated 9th of September 1993

Respectfully submitted

Allie D. Lockridge

ALLIE D. LOCKRIDGE

# EXHIBITS

Exhibits A Judgment Issued as Mandate

Exhibits B Denial of Rehearing

Exhibits C Appeal From the Circuit Court for the County of Wayne State of Michigan Summary Calendar (No. 92058)

MICHIGAN SUPREME COURT

LANSING, MICHIGAN

---

NO. 92058

SUMMARY CALENDAR

---

D. C. DOCKET NO. 89-925730-NH

ALLIE D. LOCKRIDGE

Plaintiff-Appellant,

versus

DR. A. KAMBOURIS, M.D., ET. AT.,

Defendants-Appellees.

---

APPEAL FROM MICHIGAN SUPREME COURTS

FOR THE NORTHWEST DISTRICT OF MICHIGAN

---

J U D G M E N T

On order of the Court, the application for leave to appeal is considered, and it is DENIED, because we are not persuaded that the questions should be reviewed by this court.

EXHIBIT A

ISSUED AS MANDATE:

FEBRUARY 28, 1992.

THE UNITED STATES COURT OF APPEALS

FOR THE STATE OF MICHIGAN

COURT OF APPEALS

NO. 139866

---

ALLIE D. LOCKRIDGE

Plaintiff-Appellant,

versus

DR. A. KAMBOURIS, M.D., ET. AL.,

Defendants-Appellees.

---

APPEAL FROM MICHIGAN APPEAL

COURT OF MICHIGAN

ON PETITION FOR REHEARING

(JULY 8, 1991)

Before J. B. Sullivan,

Judge.

The Court orders that the application for delayed appeal is DENIED for lack of merit in the grounds presented.

J. B. SULLIVAN

---

JUDGE

EXHIBIT B

APPEAL DENIED.

J. B. SULLIVAN

APPEAL JUDGE

IN THE UNITED STATES COURT OF APPEALS

FROM THE MICHIGAN SUPREME COURT

NO. 92058

SUMMARY CALENDAR

ALLIE D. LOCKRIDGE,

Plaintiff-Appellant,

vs.

DR. A. KAMBORUIS, ET. AL.,

Defendants-Appellees.

---

APPEAL from the CIRCUIT COURT

COUNTY OF WAYNE

STATE OF MICHIGAN

LC: (89-925730-NH)

(FEBRUARY 9, 1990)

Before the HONORABLE CLAUDIA HOUSE MOROOM CIRCUIT JUDGE.(1)

Plaintiff-Appellant, ALLIE D. LOCKRIDGE, filed this pro se civil rights compensatory and punitive damages in the sum of the FIFTY MILLION ($50,000,000.00) DOLLARS, from alleged violations of Plaintiff civil rights stemming from a final judgment of MEDICAL-MALPRACTICE.

EXHIBIT C

Plaintiff named as defendants in the original complaint.

DR. A. KAMBOURIS, M.D.,

Individually and as a Michigan medical doctor, SISTERS OF MERCY CORPORATION, a Micigan profit corporation, doing business under assumed name of MOUNT CARMEL MERCY HOSPITAL and MEDICAL CENTER OF DETROIT. CRITTENTON HOSPITAL INCORPORATED, a non-profit corporation Jointly and severally

Defendants.

---

Plaintiff alleged that defendants deprived plaintiff of right to a jury trail in her medical malpractice action. Plaintiff further alleged Februray 9, 1990, Plaintiff was also deprived of a settlement by

Honorable Claudia House Morcom

and John C. Schweickert, Attorney for Dr. Kambouris.

IN THE CIRCUIT COURT

FOR THE COUNTY OF WAYNE

ALLIE D. LOCKRIDGE *

* CIVIL #89-925730-NH

VS.

DR. A. KAMBOURIS *

*

ORDER

ORDER GRANTING MOTION FOR SUMMARY DISPOSITION AS TO DEFENDANT, DR. A. KAMBOURIS, ONLY

At a session held February 21, 1990,

PRESENT: HONORABLE CLAUDIA MORCOM

IT IS FURTHER ORDERED that the above entitled cause of action be and the same is hereby dismissed.

CLAUDIA HOUSE MORCOM

CIRCUIT COURT JUDGE

EXHIBIT D

IN THE CIRCUIT COURT

FOR THE COUNTY OF WAYNE

ALLIE D. LOCKRIDGE *

*CIVIL #89-925730-NH

vs. *

MOUNT CARMEL MERCY HOSPITAL *

*

ORDER

ORDER GRANTING MOTION FOR SUMMARY DISPOSITION AS TO DEFENDANT, MOUNT CARMEL MERCY HOSPITAL, ONLY

At a session held FEBRUARY 9, 1990,

PRESENT: HONORABLE CLAUDIA MORCOM

IT IS FURTHER ORDERED that the above entitled cause of aciton be and the same is hereby dismissed.

CLAUDIA HOUSE MORCOM

CIRCUIT COURT JUDGE

EXHIBIT E

IN THE CIRCUIT COURT

FOR THE COUNTY OF WAYNE

ALLIE D. LOCKRIDGE *

vs. * CIVIL #89-925730-NH

CRITTENTON HOSPITAL *

*

ORDER

ORDER GRANTING MOTION FOR SUMMARY DISPOSITION AS TO DEFENDANT, CRITTENTON HOSPITAL, ONLY

At a session held FEBRUARY 9, 1990,

PRESENT: HONORABLE CLAUDIA MORCOM

IT IS FURTHER ORDERED that the above entitled cause of action be and the same is hereby dismissed.

CLAUDIA HOUSE MORCOM

CIRCUIT COURT JUDGE

EXHIBIT F

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

Case No. 88-70482

ALLIE D. LOCKRIDGE

PLAINTIFF(s)

-vs-

DR. DICKSON M.D., ET. AL.,

DEFENDANT(s).

ORDER OF DISMISSAL

---

At a session of said Court

held in the U. S. Courthouse,

Detroit, Michigan on

July 6, 1988

PRESENT: Honorable Anne Taylor,

U. S. District Judge

This cause having come before the court on an order to Show Cause why this matter should not be dismissed.

IT IS THEREFORE ORDERED DISMISSED.

EXHIBIT G

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

ALLIE D. LOCKRIDGE, *

vs. * CIVIL NO. 88-70482

A. KAMBOURIS, M.D., ET. AL.,

*

ORDER GRANTING

DEFENDANT ANGELOS KAMBOURIS,

M.D.'s MOTION TO DISMISS

FOR LACK OF JURISDICTION

Defendant Kambouris, having filed, on May 11, 1988, a motion to dismiss for lack jurisdiction.

DATED: JUNE 17, 1988

SIGNATURE

ANNA DIGGS TAYLOR

United States District Judge

EXHIBIT H

UNITED STATES COURT OF APPEALS

SIXTH CIRCUIT

538 U. S. POST OFFICE &

COURTHOUSE BUILDING

CINNINNATI, OHIO 45202-3988

ALLIE D. LOCKRIDGE,

Plaintiff-Appellant,

CASE NO. 88-1922

V.

DR. A. KAMBOURIS,

DR. DICKSON, M.D., ET. AL.,

Defendants-Appellees.

ORDER GRANTING

---

DEFENDANT ANGELOS KAMBOURIS, M.D.'s

MOTION TO DISMISS

FOR LACK OF JURISDICTION

Before: KRUPANSKY and RYAN, Circuit

Judges: and BROWN, Senior Circuit Judge.

Sixth Circuit Mandate issued

01/09/89

EXHIBIT I

STATE OF MICHIGAN)

)SS:

COUNTY OF WAYNE )

I, Marianne Date, Official Court Reporter of the Circuit Court for the County of Wayne, State of Michigan, do hereby certify that the foregoing pages, 1 through 5, constitute a true and correct transcript , before the Honorable Claudia House Morcon.

on Friday, February 9, 1990.

THE COURT: Do you have one for her also? MR. PULEO: I do.

MR. SCHWEICKERT: I showed up today for the status conference and got tied up.

I was appearing to join in.

I can submit my own, too. Bascially my doctor treated her in 1973. also.



Exhibit (J)

STATUS CONFERENCE SCHEDULING ORDER

STATE OF MICHIGAN

THIRD JUDICIAL CIRCUIT

CASE NO. 89-925730-NH

TITLE: LOCKRIDGE ALLIE V KAMBOURIS A MD

ASSIGNED JUDGE: CLAUDIA MORCOM

FILING DATE: 10/13/89

STATUS CONF. DATE: 2/09/90

- - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

NON SERVICE DISMISSAL DATE: 4/13/90
50999 IN PRO PER OR OUT OF 000/0000

1 PL ISSUE LOCKRIDGE ALLIE
2 DF ISSUE KAMBOURIS A MD A 120789 28541
SCHWEICKER JOHN C 646/8090
3 DF ISSUE SISTERS OF MERCY HEALT A 121189
33180 CHAKLOS WILLIAM D 965/7900
4 DF ISSUE MT CARMEL MERCY HOSPIT S 113089 33180
CHAKLOS WILLIAM D 965/7900
DF ISSUE MEDICAL CENTER OF DETR S 113089 00000
6 DF ISSUE CRITTENTON HOSPITAL A111389 24672
PULEO JOSEPH R 649/6696

PLEASE CHECK (#) TRACK SELECTION

| Track #1 | Track #2 | Track #3 | |
|---|---|---|---|
| 4/06/90 | 6/22/90 | 9/21/90 | |
| 5/25/90 | 8/24/90 | 11/26/90 | |
| 7/90 | 10/90 | 1/91 | |
| 42 DAYS | 42 DAYS | 42 DAYS | Settlement Conference (Mediation Date Plus Approximately;) |

ALLIE D. LOCKRIDGE
ATTORNEY FOR PLAINTIFF (AGREED)

CRITTENTON HOSPITAL
ATTORNEY FOR DEFENDANT CRITTENTON HOSPITAL (SIGNED)

MOUNT CARMEL MERCY HOSPITAL
ATTORNEY FOR DEFENDANT MOUNT CARMEL MERCY HOSPITAL (SIGNED)

CLAUDIA MORCOM
CIRCUIT COURT JUDGE (SIGNED)

DR. A. KAMBOURIS
ATTORNEY FOR DEFENDANT DR. A. KAMBOURIS (DECLINED)

EXHIBIT R

PRINTED COPY

(2)

FILED
MAY 28 1993
OFFICE OF THE CLERK

No. 93-413

In The

# Supreme Court of the United States

October Term, 1993

ALLIE D. LOCKRIDGE,

*Petitioner,*

v.

A. KAMBOURIS, M.D., Individually and as a Michigan Medical doctor, SISTERS OF MERCY CORPORATION, a Michigan profit corporation, doing business under assumed name of MOUNT CARMEL MERCY HOSPITAL and MEDICAL CENTER OF DETROIT, CRITTENTON HOSPITAL INCORPORATED,

*Respondents.*

On Petition For Writ Of Certiorari
To The Michigan Supreme Court

## RESPONDENT CRITTENTON HOSPITAL INCORPORATED'S REPLY TO PETITION FOR WRIT OF CERTIORARI

ROSEMARIE FLAHERTY (P34682)
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COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

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## STATEMENT OF QUESTIONS PRESENTED

Whether Petitioner's Petition for Writ of Certiorari should be denied when the trial court granted Respondent's Motion for Summary Disposition on the issue of the running of the Statute of Limitations?

Respondent contends, "Yes".

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## CONSTITUTIONAL PROVISIONS

### ARTICLE 3

**Section 2.** The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; – to all Cases affecting Ambassadors, other public Ministers and Consuls; – to all Cases of admiralty and maritime Jurisdiction; – to Controversies to which the United States shall be a Party; – to Controversies between two or more States; – between a State and Citizens of another State; – between Citizens of different States; – between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

## STATEMENT OF THE CASE

Petitioner alleges that she was the victim of Respondent's medical malpractice in 1973. She contends she was not aware of the alleged malpractice until 1988. However, Petitioner attempted to retain counsel to investigate her claim in September, 1973. Therefore, Petitioner *was* aware of the alleged medical malpractice in September, 1973.

In February, 1990, the District Court entered an Order dismissing Petitioner's case, as the Statute of Limitations for medical malpractice had expired. Subsequently, in July, 1991, Petitioner's application for delayed appeal was denied. Furthermore, leave to appeal was denied in the Michigan Supreme Court.

## ARGUMENT

### I. THE STATUTE OF LIMITATIONS HAS EXPIRED.

MCL 600.5805(4) provides that the period of limitations is two years for an action charging malpractice. Additionally, pursuant to MCL 600.5838a(3), an action may be commenced within six months after the plaintiff discovers or should have discovered the existence of the claim. The burden that plaintiff neither discovered nor should have discovered the existence of the claim within the six month period is on the plaintiff.

The Court in *Kermizian v. Sumcad*, 470 NW2d 500, 503; 188 Mich. App. 690, 694 (1991), a medical malpractice case, determined:

> The discovery rule does not require that a plaintiff know with certainty that the defendant committed malpractice before the six-month discovery period begins to run. All that is required is that the plaintiff know of the act or omission of the defendant and have to believe that the medical treatment was improper or was performed in an improper manner.

In the instant case, Petitioner alleges she was the victim of Respondent's medical malpractice in 1973. Petitioner contends she was not aware of this medical malpractice until January, 1988. (Appendix #1, Petitioner's Complaint, paragraph #7).

However, in September, 1973, Petitioner retained legal counsel to pursue her medical malpractice claim. (Appendix #2). Therefore, Petitioner *was* aware of the alleged medical malpractice in 1973 and she should have initiated her lawsuit at ~~that time~~. The Statute of Limitations for Petitioner's medical malpractice action has clearly expired, as the alleged malpractice occurred 16 years prior to filing the lawsuit. (Appendix #3, Respondent's Answer to Petitioner's Application for Leave to Appeal, paragraph #3).

## II. THE STATE COURT OF LAST RESORT HAS NOT DECIDED A FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH THE DECISION OF ANOTHER STATE COURT OF LAST RESORT.

Rule 10 of the United States Supreme Court Rules provides that a consideration for determining whether to grant a Petition for Writ of Certiorari is if the State Court of Last Resort has decided a federal question in a way

that conflicts with the decision of another State Court of Last Resort.

In the case at bar, the State Court of Last Resort, the Michigan Supreme Court, did not grant Petitioner's Leave to Appeal. (Appendix #4). Therefore, it would not even hear the Petitioner's claim. Additionally, it is noteworthy that the Petitioner's lawsuit was summarily dismissed in the Trial Court (Appendix #5) and further leave to appeal was denied in the Court of Appeals for lack of merit on the grounds presented. (Appendix #6, Respondent's Answer to Petitioner's Application for Leave to Appeal, paragraph #8).

In summary, the procedural history of this case clearly illustrates that the Statute of Limitations has expired. Therefore, Respondent respectfully requests this Honorable Court deny Petitioner's Petition for Writ of Certiorari.

## III. THERE IS NO IMPORTANT QUESTION OF FEDERAL LAW AT ISSUE.

Article 3, Section 2 of the United States Constitution provides:

> The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; – to all cases affecting Ambassadors, or public Ministers and Counsuls; – to all Cases of Admiralty and maritime Jurisdiction; – to Controversies to which the United States shall be a Party; – to Controversies between two or more States; – between a State and Citizens of

> another State; – between Citizens of different States; – between Citizens of the same State claiming Lands under Grants of different States, and between a State or the Citizens thereof, and foreign States, Citizens or Subjects.
>
> In all Cases affecting Ambassadors, other public Ministers and counsels, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such exceptions, and under such Regulations as the Congress shall make.
>
> The trial of all Crimes, except in Cases of Impeachment shall be by jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

In the instant case, the Petitioner brings a cause of action against Respondent for medical malpractice. This matter is a case of negligence and has been adequately resolved in the state courts. Furthermore, the instances in which the United States Supreme Court shall have appellate jurisdiction, as provided in Article 3, Section 2 of the United States Constitution, *supra*, are not present in the case at bar. Therefore, it is not necessary to appeal this matter to the United States Supreme Court.

## CONCLUSION

The procedural history of Petitioner's case illustrates that the Statute of Limitations clearly bars Petitioner's cause of action. Additionally, the United States Supreme Court does not have jurisdiction over this medical malpractice case, as there is no conflict with other State Supreme Court decisions and there is no important federal question at issue. Therefore, in light of the foregoing reasons, Respondent respectfully requests this Honorable Court to deny Petitioner's Petition for Writ of Certiorari.

NOESKE, TARNAVSKY AND BLANCO

ROSEMARIE FLAHERTY (P34682)
*Attorney for Respondent*
*Crittenton Hospital, Incorporated*

## APPENDIX 1

* * *

3. That the Defendant, A. KAMBOURIS, M.D. is an individual person licensed to practice medicine in the State of Michigan and subject to the jurisdiction of this Court and amenable to legal process by this Court.

4. That the Defendant, CRITTENTON HOSPITAL, Incorporated is a Non-Profit Corporation presently doing business in the City of Rochester County of Oakland, STATE OF MICHIGAN and subject to the jurisdiction of the Court and amenable to legal process of law by this Court.

5. That this "case and controversy" involves valid legal claims by this Plaintiff, -ALLIE LOCKRIDGE- for compensatory damages for medical malpractice claims which this Plaintiff, ALLIE LOCKRIDGE, has against these Defendants arising out of tortious medical treatment and services rendered by these Defendants in 1973, for which Plaintiff is now entitled to compensatory damages.

6. That this "case and controversy" involves claims which are in excess of Ten Thousand ($10,000.00) Dollars or more and this Court is a proper Court having "subject matter jurisdiction" to hear, litigate, adjudicate this civil action between these parties.

7. That this "case and controversy" is not time-barred by the Michigan Statute of Limitations statute, M.C.L.A. 600.5805; M.S.A. 27A.5805 – because this Plaintiff *did not discover* the medical malpractice committed by these Defendants, until January of 1988 at which time this

Plaintiff filed a civil action in the U.S. District Court under Civil Action #88-0482 tolling the running of the Statute of Limitations according to M.C.LA. 600.5856.

8. Plaintiff, ALLIE LOCKRIDGE, further asserts that she is rightfully entitled to maintain this civil action for Medical Malpractice against these Defendant(s), because these Defendant(s) fraudulently concealed the fact that they had committed medical malpractice upon this Plaintiff, ALLIE LOCKRIDGE, in 1973 and Plaintiff, ALLIE LOCKRIDGE did not discover the medical malpractice until January, of 1988 and she is thus entitled to the benefit of the Michigan statute, M.C.L.A. 600.5855 in respect to the "tolling" of the Michigan Statute of Limitations as prescribed by M.C.L.A. 600.5805.

* * *

## APPENDIX 2

LAW OFFICES

Charfoos and Charfoos
A PROFESSIONAL CORPORATION
838 FIRST NATIONAL BUILDING
DETROIT, MICHIGAN 48226

963-8080

SAMUEL CHARFOOS
LAWRENCE S. CHARFOOS
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DAVID F. DICKINSON
RONALD R. GILBERT
DAVID W. CHRISTENSEN

Oakland County Office
19111 West Ten Mile Bldg.
Southfield, Michigan Illegible
Illegible
*Of Counsel*
ALAN A. MAY

September 17, 1973

Crittenton Hospital
1554 Woodrow Wilson
Detroit, Michigan

Re: Allie Lockridge

Birthdate: 9-19-35

Treated From: 4-8-73 and 6-4-73

To: 4-21-73 and 6-19-73

Enclosed is a medical authorization signed by the above person and a self-addressed, stamped envelope for your reply.

Please send us your medical report regarding treatment rendered to the above person during the above dates indicating therein your diagnosis, treatment and prognosis of the conditions treated. Also, please include an *itemized statement of* your billing for services rendered.

Please feel free to bill us for this information.

Sincerely yours,

/s/ David W. Christensen
DAVID W. CHRISTENSEN

LAW OFFICES

Charfoos and Charfoos
SUITE 939 FIRST NATIONAL BUILDING
DETROIT, MICHIGAN 48226

WOodward 3-8080

TO WHOM IT MAY CONCERN:

This is your authority to allow my attorneys, Charfoos and Charfoos, or their representative, to examine any and all records you may have in regard to the treatment and/or confinement of

ALLIE LOCKRIDGE
4-8-73 4-21-73
from 6-4-73 to 6-19-73

Name /s/ Allie Lockridge
Address 14662 Northlawn, Detroit, Mich. 48238
Birthdate September 19, 1935

Subscribed and sworn to before me this
17th day of September 1973
/s/ Dennis Holly
Notary Public Wayne County
My commission expires 1-24-76

## APPENDIX 3

* * *

2. A Motion for Summary Disposition was filed in this Circuit Court by this Defendant based upon the appropriate Statute of Limitations for medical malpractice cases. The Statute provides that a cause of action for medical malpractice must be filed within two years of the date of the malpractice; MCLA 600.5805(4).

3. The alleged malpractice occurred 16 years prior to filing the lawsuit.

4. The Statute allowed that a malpractice action could be brought within two years of the date of the discovery of the medical malpractice. Discovery in this case was prior to September of 1973, inasmuch as the Plaintiff retained a law firm to pursue her malpractice case prior to September of 1973. The hospital chart contains a letter received from David Christenson requesting a copy of the medical charts on behalf of his client, ALLIE LOCKRIDGE, Plaintiff-Appellant. Not only did the Plaintiff discovery [sic] what she believed to have been medical malpractice, but she retained a law firm to represent her.

5. The Trial Court, Claudia Morcom, granted Defendant's Motion for Summary Disposition after a thorough review of the file and oral arguments.

6. The Motion for Summary Disposition was granted on February 9, 1990. Fifteen months after the final order was entered in the Trial Court, Plaintiff-Appellant filed an Application for Appeal with the Court of Appeals.

7. That MCR 7.101(B) provides that appeal of right must be taken within 21 days after the entry of the Order of Judgment appealed from.

8. That the Court of Appeals, on July 8, 1991, ordered that the Application for delayed appeal was denied for lack of

* * *

## APPENDIX 4

**Michigan Supreme Court**
Lansing, Michigan

**Order**

Entered: February 28, 1992

Michael F. Cavanaugh
Chief Justice

Charles L. Levin
James H. Brickley
Patricia J. Boyle
Dorothy Comstock Riley
Robert P. Griffin
Conrad L. Mallett, Jr.
Associate Justices

92058

ALLIE LOCKRIDGE,
Plaintiff-Appellant,

v

A. KAMBOURIS, M.D., Individually and as a Michigan Medical Doctor: SISTERS OF MERCY CORPORATION, a Michigan Profit Corporation, doing business under Assume [sic] Name of MOUNT CARMEL MERCY HOSPITAL and MEDICAL CENTER OF DETROIT; CRITTENDON HOSPITAL INCORPORATED, a Non-Profit Corporation,

Defendants-Appellees.

SC: 92058
COA: 139866
~~LC: 89-92973-NH~~
LC: 89-925730-NH

On order of the Court, the application for leave to appeal is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

90225

[seal] I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 28, 1992 /s/ Jacqueline B. MacKinnon

**APPENDIX 5**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ALLIE LOCKRIDGE,
Plaintiff,

vs.

A. KAMBOURIS, M.D., Individually and as a Michigan Medical Doctor, SISTERS OF MERCY HEALTH CORPORATION, a Michigan Profit Corporation, doing business under the Assumed Name of MOUNT CARMEL MERCY HOSPITAL and MEDICAL CENTER OF DETROIT, CRITTENTON HOSPITAL INCORPORATED, a Non-Profit Michigan Corporation, Jointly and Severally.

Defendants.
_____/

89-925730 NH
10/13/89
JDG: CLAUDIA
HOUSE MORCOM
LOCKRIDGE, ALLIE
VS
KAMBOURIS A MD

ALLIE LOCKRIDGE
IN PRO PER
P. O. Box 38637
Detroit, Michigan

JOSEPH R. PULEO P24672
Atty. for Crittenton Hospital
2301 W. Big Beaver
Suite 950
Troy, MI 48084
(313)649-6696

_____/

ORDER GRANTING MOTION FOR SUMMARY DISPOSITION AS TO DEFENDANT, CRITTENTON HOSPITAL, ONLY

At a regular session held in the City of Detroit, County of of Wayne, State of Michigan on FEB 9 1990

PRESENT: CLAUDIA HOUSE MORCOM
HONORABLE CLAUDIA HOUSE MORCOM

Upon Motion of Defendant, CRITTENTON HOSPITAL, having come on to be heard and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that Defendant, CRITTENTON HOSPITAL, Motion for Summary Disposition is hereby granted in the above lawsuit.

IT IS FURTHER ORDERED that the above entitled cause of action be and the same is hereby dismissed and discontinued with prejudice and without costs as to Defendant, CRITTENTON HOSPITAL, only.

CLAUDIA HOUSE MORCOM
CIRCUIT COURT JUDGE

Illegible
Illegible, KILLEEN
CLERK

BY /s/ G E. Chung
DEPUTY CLERK

## APPENDIX 6

Court of Appeals, State of Michigan

ORDER

Joseph B. Sullivan

Presiding Judge

Myron H. Wahls
Roman S. Gribbs

Judges

Allie Lockridge v A. Kambouris, M.D.

Docket # 139866
L. C. # 89-925730-NH

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The Court orders that the application for delayed appeal is DENIED for lack of merit in the grounds presented.

/s/ Illegible

[seal] A true copy entered and certified by Daniel F. Walsh, Chief Clerk, on

JUL 08 1991 /s/ Daniel F. Walsh
Date Chief Clerk

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